

Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

Vinnie Norman,
Plaintiff,

v.

Family Dollar Stores, Inc.
Defendant.

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CIVIL ACTION NO: CV-06-1341

553 - CSL

PLAINTIFF'S MOTION TO REMAND

Plaintiff, Vinnie Norman files this motion to remand this cause to the Circuit Court of Montgomery County, Alabama, where this case was originally and properly filed, pursuant to 28 U.S.C.A. §1447(c), which states in pertinent part as follows:

A motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction must be made within 30 days after the filing of the notice of removal under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal. A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court. The State court may thereupon proceed with such case.

This case should be remanded pursuant to 28 U.S.C.A. for the following reasons:

I.

Plaintiff filed this lawsuit on May 12, 2006, alleging causes of action against Defendant, Family Dollar Stores, Inc. for negligence and wantonness by failing to (1) maintain safe, non-hazardous premises and (2) make reasonable inspections of its premises. Plaintiff's complaint alleges that Defendant is liable for physical pain and suffering, permanent injury, and mental anguish as a result of the injury Plaintiff suffered while on Defendant's property located at 4752 Mobile Highway, Montgomery, Alabama 36108. A copy of Plaintiff's Original Petition is attached as Exhibit "A."

II.

In Defendant's Notice of Removal they admit to receiving a copy of the complaint on May 31, 2006. A copy of Defendant's Notice of Removal is attached as Exhibit "B."

III.

Defendant filed its Notice of Removal on June 20, 2006.

IV.

Contemporaneous with this Motion, Plaintiff filed Motion to Amend Complaint. In the Motion to Amend Complaint, Plaintiff motioned the court to add Jeanette Dillard as party Defendant to this action. Jeanette Dillard is a resident of Montgomery County, Alabama.

V.

This court does not have original jurisdiction over the present action pursuant to 28 U.S.C. § 1332, which states in pertinent part as follows:

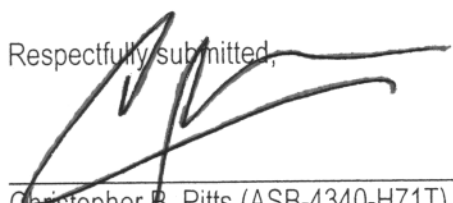
(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between--

- (1) citizens of different States;
- (2) citizens of a State and citizens or subjects of a foreign state;
- (3) citizens of different States and in which citizens or subjects of a foreign state are additional parties; and
- (4) a foreign state, defined in section 1603(a) of this title, as plaintiff and citizens of a State or of different States.

Therefore, removal of this cause is improper because there is no diversity of citizenship. Plaintiff is a citizen of the State of Alabama. Defendant, Family Dollar Stores, Inc. is a citizen of the State of Delaware because it is a corporation duly formed under the laws of that state, with its principal place of business in North Carolina. Therefore, Defendant Family Dollar Stores, Inc. is not a citizen of the State of Alabama. Defendant, Jeanette Dillard is a citizen of the State of Alabama. Accordingly, there is no diversity of citizenship.

Accordingly, Plaintiff Vinnie Norman respectfully requests that this Court remand this cause to the Circuit Court of Montgomery County, Alabama, with the cost of such remand taxable to Defendant's, Family Dollar Stores, Inc.

Respectfully submitted,



Christopher B. Pitts (ASB-4340-H71T)
Attorney for Plaintiff

OF COUNSEL:

THE PITTS FIRM
4142-A Carmichael Road
Montgomery, AL 36106

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served on the following by directing same to the office address through first-class, United States mail, postage prepaid, on this the 10 day of August 2006:

William J. Long
Burr & Foreman LLP
3100 North 20th Street
Birmingham, AL 35203-5206

Mac B. Greaves
Burr & Foreman LLP
3100 North 20th Street
Birmingham, AL 35203-5206

Stephen J. Bumgarner
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A handwritten signature in dark ink, appearing to be a stylized 'M' or 'W' followed by a long horizontal stroke.